

legatee, has had given to him an estate in the nature of an annuity for life, amounting to no more than \$250 per annum ; from which alone, it is true, that he may be able to obtain a much better education than his father can give him ; yet his expectations in life, from such an estate, cannot be presumed to rise so far above those to which he might look as a member of his father's family, as to suggest the propriety of his being brought up with higher hopes, much less to justify any suppression of his father's authority over him. Nevertheless, from the terms of this bequest, which, beyond a specified expenditure, is to accumulate until the legatee attains his full age, as well as from the principles of equity by which this case must be governed, if the father refuses to permit these trustees to have the management of his maintenance and education, I can order nothing to be paid to him for those or any other purposes. (b) And as the father has never, in any way, consented to part with his son, in consideration of his being maintained and educated, as directed by the testator, I cannot, on that ground, interfere with the connexion between him and his child. But to whatever school he may be permitted to go, by his father, the trustees will be ordered to pay all expenses, to the extent of the annual income of his legacy, including maintenance for that purpose, if the school should be deemed sufficient, and happens to be too distant for him to reside with his father.

There seems to have been an understanding between these trustees and the father of *Larkin*, the legatee, that he was, at all events, to be maintained and educated by them ; and, under that impression, they have made some advances to the father on that account. I shall, therefore, on the ground of allowing that to stand which appears to have been well intended, and might have been ordered, affirm the auditor's report, in this respect, awarding so much, as therein stated, to be paid to the father.

Trustees are never charged, in any way, but on the ground of some fault or neglect. Here no misconduct can be imputed to these trustees ; and, therefore, the plaintiff *Larkin Shipley's* exceptions to the auditor's report must be over-ruled.

Whereupon it is *Decreed*, that the trustees *Richard G. Stockett* and *Henry Wayman* without delay invest the residue of the amount of the legacy given to the said *Ann Jones* in such stocks or way

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(b) *Jervoise v. Silk*, Cooper's Rep. 52 ; *Haley v. Bannister*, 4 Mad. 275 ; *Wellenley v. Beaufort*, 3 Cond. Cha. Rep. 14.